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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Costa Rica, Denmark, Djibouti, Finland, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Japan, Jordan, Kuwait, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, Norway, Portugal, San Marino, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Kosovo

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other human rights instruments,

Recalling Security Council resolutions 1160 (1998) of 31 March 1998, 1199 (1998) of 23 September 1998 and 1203 (1998) of 24 October 1998, as well as the statement made on 24 March 1998 by the Chairman of the fifty-fourth session of the Commission on Human Rights[3] and Commission on Human Rights resolution 1998/79 of 22 April 1998,[4]

Taking fully into account the regional dimensions of the crisis in Kosovo, particularly with regard to the human rights and the humanitarian situation, and deeply concerned at the potential adverse consequences thereof,

Taking note with concern of the report of the Secretary-General on the situation of human rights in Kosovo[5] and the report of the Special Rapporteur of the Commission on

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] *Official Records of the Economic and Social Council, 1998, Supplement No. 3* (E/1998/23), para. 28.
[4] Ibid., chap. II, sect. A.
[5] A/53/563.

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Human Rights on the situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro),[6] which describe the persistent and grave violations and abuse of human rights and humanitarian law in Kosovo,

Gravely concerned about the systematic terrorization of ethnic Albanians, as demonstrated in the many reports, *inter alia*, of torture of ethnic Albanians, through indiscriminate and widespread shelling, mass forced displacement of civilians, summary executions and illegal detention of ethnic Albanian citizens of the Federal Republic of Yugoslavia (Serbia and Montenegro) by the police and military,

Concerned about reports of violence committed by armed ethnic Albanian groups against non-combatants and illegal detention of individuals, primarily ethnic Serbs, by those groups,

Stressing, in this context, the importance of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991,

Distressed by the lack of due process in the trials of those ethnic Albanians who have been detained, charged or brought to trial in relation to the crisis in Kosovo,

Concerned by the grave infringements upon the freedom of expression in the Federal Republic of Yugoslavia (Serbia and Montenegro), in particular the adoption of the new law on public information by the Serbian Parliament and the recent closure of several independent newspapers and radio stations in the Federal Republic of Yugoslavia (Serbia and Montenegro),

1. *Welcomes* the commitment made by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to address the conflict and the ongoing human rights violations in Kosovo, as manifested by agreements signed by the Organization for Security and Cooperation in Europe and the North Atlantic Treaty Organization, and the international supervision of elections and verification of the implementation of human rights commitments;

2. *Also welcomes* the withdrawal and return to garrison of a number of military and police units, as demanded by the Security Council in its resolution 1199 (1998), but cautions that such withdrawals must be genuine, complete and lasting;

3. *Welcomes* further, the establishment by the Organization for Security and Cooperation in Europe of the Kosovo Verification Mission, and calls upon all parties in Kosovo to cooperate fully with the Mission and ensure the protection, freedom of movement and unrestricted access within Kosovo of its personnel;

4. *Welcomes* the conclusion of a memorandum of understanding with the United Nations High Commissioner for Human Rights in accordance with the statement of the Chairman of the Commission on Human Rights,[3] regarding the status of the office in Belgrade, leading the way to the establishment of office premises for the Office of the High Commissioner and the deployment of additional human rights officers in Kosovo;

5. *Calls upon* the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to respect fully all human rights and fundamental freedoms and to abide by democratic norms, especially in regard to respect for the principle of free and fair elections, the rule of law, the administration of justice, free and fair trials and the promotion and protection of free and independent media;

[6] A/53/322 and Add.1.

6. *Calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the ethnic Albanian leadership in Kosovo to condemn acts of terrorism, denounce and refrain from all acts of violence, encourage the pursuit of goals through peaceful means, and respect international humanitarian law and international human rights standards;

7. *Urges* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Kosovo Albanian leadership to enter immediately into a meaningful dialogue, without preconditions and with international involvement, and to commit themselves both to a clear timetable, leading to an end of the crisis, and to a negotiated political settlement of the issue of Kosovo, and welcomes the current efforts aimed at facilitating such a dialogue;

8. *Strongly condemns* the overwhelming number of human rights violations committed by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro), the police and military authorities in Kosovo, in breach of international humanitarian law including article 3 common to the Geneva Conventions of 12 August 1949 and Protocol II to the Conventions relating to the protection of victims of non-international armed conflicts, including summary executions, indiscriminate and widespread attacks on civilians, indiscriminate and widespread destruction of property, mass forced displacement of civilians, the taking of civilian hostages, torture and other cruel, inhuman or degrading treatment, and calls upon the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to take all measures necessary to eliminate these unacceptable practices;

9. *Also condemns* the violence by armed ethnic Albanian groups, in particular against non-combatants, including kidnappings;

10. *Also strongly condemns* the denial of appropriate access to Kosovo of non-governmental organizations, the manipulation and denial of relief and basic foodstuffs, and the denial of medical care to wounded civilians, calls upon the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to take all measures necessary to eliminate these unacceptable practices forthwith, and recalls the commitment to allow unhindered access to humanitarian organizations and the need to facilitate the return to their homes of internally displaced persons immediately;

11. *Deeply deplores* the killing of humanitarian aid workers, as reported by the Secretary-General;[7]

12. *Calls upon* all parties, in particular those of the Federal Republic of Yugoslavia (Serbia and Montenegro), to clear the area forthwith of all landmines and booby-traps and to work with the relevant international bodies to this end;

13. *Calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to comply with and build on the commitments made by the President of the Republic of Serbia in his statement of 13 October 1998, which were subsequently endorsed by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro);

14. *Also calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro):

(a) To establish a local police force in Kosovo under local or communal direction, which will be representative of the local population;

[7] A/53/563, para. 6.

(b) To abide by the principle that no person will be prosecuted in state courts for crimes related to the conflict in Kosovo, except for crimes against humanity, war crimes and other crimes covered by international law;

(c) To allow complete, unimpeded access to Kosovo for all forensic experts of the International Tribunal for the Former Yugoslavia, to examine the recently alleged atrocities against civilians;

(d) To mitigate the punishments of and where appropriate to amnesty the ethnic Albanians in Kosovo sentenced for criminal offences motivated by political aims;

(e) To respect fully all the rights of individuals in Kosovo, whatever their ethnic, cultural or religious backgrounds, so as to guarantee equitable treatment of their values and historic patrimony and so as to preserve and permit expression of their national, cultural, religious and linguistic identities in accordance with international standards and the Helsinki Final Act;

15. *Further calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to open to public observation all trials or criminal prosecutions against all those charged in relation to the conflict in Kosovo;

16. *Calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to make possible the establishment of genuine democratic self-governance in Kosovo, through a negotiated political settlement with representatives of the ethnic Albanian community, as called for by the Security Council in its resolutions 1160 (1998), 1199 (1998) and 1203 (1998), to include executive, legislative and judicial bodies and police, and in so doing to respect the rights of Kosovar Albanians and all who live in Kosovo, and expresses its support for an enhanced status for Kosovo, which would include a substantially greater degree of autonomy;

17. *Also calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to grant access to and free and unaccompanied movement within Kosovo for all humanitarian aid workers and international monitors;

18. *Further calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro):

(a) To promote and respect fully the freedom of expression and the freedom of the press, without discrimination;

(b) To repeal those legal measures used to discriminate against ethnic Albanians, including repressive laws on universities;

19. *Calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) and armed Albanian groups to refrain from any harassment and intimidation of journalists;

20. *Calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to work closely with and support the mission to Kosovo of the Personal Representative of the Chairman-in-Office of the Organization for Security and Cooperation in Europe, and with the Kosovo Verification Mission;

21. *Also calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to investigate and prosecute in all cases where so warranted, notably those cases concerning its personnel, anyone suspected of torture and ill-treatment of persons held in detention;

22. *Further calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to release all political prisoners, to allow unimpeded access by

non-governmental organizations and international observers to those prisoners who remain in detention, and to cease the persecution of political leaders and members of local human rights organizations;

23. *Calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) and ethnic Albanian leaders to allow for and facilitate the free and unhindered return to their homes, in safety and dignity, of all internally displaced persons and refugees, and expresses its concern about reports of continuing harassment or other impediments in this regard;

24. *Calls upon* the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and all others concerned to guarantee the unrestricted access of humanitarian organizations and the United Nations High Commissioner for Human Rights to Kosovo, and to allow the unhindered delivery of relief items and ensure the safety and security of humanitarian, diplomatic and other affected personnel accredited to the Federal Republic of Yugoslavia (Serbia and Montenegro), including members of the Verification Mission of the Organization for Security and Cooperation in Europe;

25. *Encourages* the useful cooperation of the United Nations and the Organization for Security and Cooperation in Europe on the ground in the light of the report of the Secretary-General on the situation of human rights in Kosovo;

26. *Requests* the Secretary-General to pursue his humanitarian efforts in the Federal Republic of Yugoslavia (Serbia and Montenegro), working through the Office of the United Nations High Commissioner for Refugees, the World Food Programme, the United Nations Children's Fund, other appropriate humanitarian organizations and the Office of the United Nations High Commissioner for Human Rights, with a view to taking urgent practical steps to meet the critical needs of the people in Kosovo, and to assist in the voluntary return of the displaced persons to their homes in conditions of safety and dignity;

27. *Encourages* the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to continue investigations at all levels on serious violations of international humanitarian law committed in Kosovo, and reaffirms that such crimes fall within its jurisdiction;

28. *Demands* that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Kosovo Albanian leadership and all others concerned cooperate fully with the Tribunal and honour all of their obligations towards it, *inter alia,* by providing full and free access to Kosovo for the investigators of the Tribunal;

29. *Reiterates its call upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to live up to their commitment to provide financial and material assistance to those residents of Kosovo whose homes have been damaged;

30. *Emphasizes* that legislation on citizenship of the Former Republic of Yugoslavia (Serbia and Montenegro) should be applied in accordance with the principles set out in relevant international instruments, in particular with regard to the standards and principles of the reduction and avoidance of statelessness;

31. *Also emphasizes* that improvement in the promotion and protection of human rights and fundamental freedoms in the Federal Republic of Yugoslavia (Serbia and Montenegro) will assist in establishing a full range of relations with the international community;

32. *Requests* the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia to continue to monitor closely the situation of human rights in Kosovo, to pay especial attention to Kosovo in his

reporting and to report his findings to the Commission on Human Rights at its fifty-fifth session and to the General Assembly at its fifty-fourth session;

33. *Decides* to continue the examination of the situation of human rights in Kosovo at its fifty-fourth session under the item entitled "Human rights questions".